

1 JAMES A. LASSART (SBN 40913)  
 2 ADRIAN G. DRISCOLL (SBN 95468)  
 3 SPENCER C. MARTINEZ (SBN 206337)  
 4 ROPERS, MAJESKI, KOHN & BENTLEY  
 5 201 Spear Street, Suite 1000  
 6 San Francisco, CA 94105  
 7 Telephone: (415) 543-4800  
 8 Facsimile: (415) 972-6301

9 Attorneys for Defendants  
 10 ABERCROMBIE & FITCH and MELISSA  
 11 BASFIELD

12  
 13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA

15 KRISTINA ENNIX SLAUGHTER and  
 16 MITCHELL SLAUGHTER,

17 Plaintiffs,

18 v.

19 CITY OF EMERYVILLE, EMERYVILLE  
 20 POLICE DEPARTMENT, E. WHITE  
 21 (#307) and S. ANDRETICH (#339),  
 22 individually and in their official capacities;  
 23 VICTORIA'S SECRET, CLAUDIA  
 24 SOTO, ABERCROMBIE & FITCH, and  
 25 MELISSA BASFIELD,

Defendants.

CASE NO. C08-01552-PJH

**ORDER GRANTING MOTION TO DISMISS  
 BY DEFENDANTS ABERCROMBIE &  
 FITCH AND MELISSA BASFIELD IN PART  
 WITH PREJUDICE AND IN PART WITH  
 LEAVE TO AMEND**

DATE: June 4, 2008  
 TIME: 9:00 a.m.  
 COURTROOM: 3, 17<sup>th</sup> Floor  
 JUDGE: Hon. Phyllis J. Hamilton

26 The motion by defendants ABERCROMBIE & FITCH and MELISSA BASFIELD  
 27 ("Defendants") for an order dismissing the complaint against them without leave to amend  
 28 pursuant to Federal Rule of Civil Procedure 12(b)(6) came on regularly for hearing before this  
 Court on June 4, 2008, the Honorable Phyllis J. Hamilton presiding. Plaintiffs appeared by  
 counsel Jivaka Candappa of the Law Office of Jivaka Candappa. Defendants appeared by  
 counsel James A. Lassart of Ropers, Majeski, Kohn & Bentley.

This Court, having considered the papers submitted and the oral arguments of counsel,  
 and good cause appearing:

Defendants' motion for an order dismissing the complaint as against them is GRANTED

1 with prejudice in part and with leave to amend in part.

2 IT IS ORDERED THAT the Fifth Cause of Action (California Government Code § 815.2  
3 and Respondeat Superior Liability) as alleged against Abercrombie & Fitch; the Ninth Cause of  
4 Action (Invasion of Privacy) as alleged against Melissa Basfield and Abercrombie & Fitch; and  
5 the Thirteen Cause of Action (Negligence and Negligence Per Se) as alleged against Melissa  
6 Basfield and Abercrombie & Fitch are all DISMISSED with Prejudice.

7 IT IS FURTHER ORDERED THAT the Eighth Cause of Action (Intentional Infliction of  
8 Emotion Distress) as alleged against Melissa Basfield and Abercrombie & Fitch; and the Tenth  
9 Cause of Action (Slander Per Se) as alleged against Melissa Basfield and Abercrombie & Fitch  
10 are both DISMISSED with Leave to Amend. Leave to amend is GRANTED on the basis that  
11 Plaintiffs can in good faith allege that Defendant Basfield made a published statement that  
12 Plaintiffs were involved in criminal activity.

13 ANY AMENDED COMPLAINT IS DUE NO LATER THAN JULY 18, 2008.

14 Dated: June 16, 2008

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16 APPROVED AS TO FORM:

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18  
19 /s/ Jivaka Candappa \_\_\_\_\_  
20 JIVAKA CANDAPPA  
21 LAW OFFICE OF JIVAKA CANDAPPA  
22 Attorneys for Plaintiffs  
23 KRISTINA ENNIX SLAUGHTER and  
24 MITCHELL SLAUGHTER

